

# EXHIBIT B

4 ) Civil Action No.  
5 ) 5:16-cv-10444-JEL  
5 In re: FLINT WATER CASES )  
6 )  
6 ) Hon. Judith E. Levy  
7 )

9 HIGHLY CONFIDENTIAL

10 Wednesday, May 10, 2023

11  
12                    Remote videotaped deposition of  
13 LARRY L. RUSSELL, Ph.D., commencing at 8:32 a.m., on  
14 the above date before Carol A. Kirk, Registered Merit  
15 Reporter, Certified Shorthand Reporter, and Notary  
16 Public.

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1 there are a number of municipalities around the  
2 country that have levels of 6 parts per billion  
3 for their 90th percentile as a result of lead  
4 and copper testing?

5 MR. STERN: Objection; form,  
6 vague.

7 A. Are you stating that those samples  
8 were collected in accordance with the Lead and  
9 Copper Rule guidelines for what houses should be  
10 sampled?

11 Q. Sure.

12 A. Okay. With that caveat, yes, I'm  
13 aware of some that have those numbers. My  
14 position is the same. It's still too high.

15 Q. Okay. Let's turn to page 14 of  
16 your rebuttal report, Dr. Russell.

17 You talk about the standard of  
18 care on this page, and you state in part -- if  
19 you look at the first bullet there toward the  
20 bottom of page 14 that "VNA failed to identify  
21 the enormous risk to human health and property."

22 Do you see that?

23 A. Yes, sir.

24 Q. What is the basis for that

1 opinion?

2 A. A review of the information

3 provided internally and externally by Veolia.

4 Q. What was the enormous risk?

5 A. Well, as stated there clearly,

6 I believe, there are two. It is a real issue

7 with human health to intake water that contains

8 excessive amounts of lead.

9 And with respect to the property,

10 it is -- the issue there is the corrosion of the

11 piping materials in the user's businesses and

12 homes in Flint.

13 Q. Okay. Thank you for that.

14 Dr. Russell, you're familiar with

15 the Safe Drinking Water Act, correct?

16 A. Yes.

17 Q. Dr. Russell, in your experience,

18 do water treatment professionals use the Safe

19 Drinking Water Act to evaluate whether or not

20 water is safe to drink?

21 A. Sort of. I mean, I wouldn't put

22 it in those terms.

23 Q. From a regulatory standpoint,

24 Dr. Russell, would you agree that water that

1 A. Where are you now?

2 Q. Sure. If you drop down to --

3 still under the bold 3, if you drop down to b.

4 A. Yes, sir.

5 Q. Do you see what I read a minute

6 ago?

7 A. Yes. Okay.

8 Q. Okay. Taking Canon 3 and 3b in  
9 mind, Dr. Russell, what basis do you believe VNA  
10 had in February or March of 2015 to warn the  
11 public in the City of Flint with respect to  
12 lead?

13 A. As I recall, during this period of  
14 time, there were numerous internal e-mails  
15 inside of VNA discussing the fact that the only  
16 safe approach here was to return the water  
17 system to the Detroit Water.

18 So internally they knew the  
19 answer, and they knew the concerns, and they  
20 were concerned about lead, and they didn't  
21 express that in their reports or in their public  
22 presentations.

23 Q. So it's your testimony that VNA  
24 should have told the public that the City of

1 Flint should have returned to Detroit?

2 Is that what you're saying?

3 MR. CONNORS: Objection;

4 mischaracterizes his testimony.

5 A. Among other things. Clearly, as

6 we're sitting here, we're all aware that the --

7 what solved the Flint water crisis was switching

8 back to Detroit Water.

9 So Veolia knew the answer when

10 they were on the job, and they discussed it

11 internally, but they failed to take any motions

12 or actions to move the client forward to that

13 solution.

14 Q. And did I hear you say a minute

15 ago, Dr. Russell, that there was some

16 information with respect to lead that you

17 believe VNA was under an obligation to tell the

18 public about in February or March of 2015?

19 A. I didn't say that.

20 Q. Okay. All right. So you agree

21 that as of February, March 2015, there was not

22 information known to VNA that gave rise to a

23 duty to inform the public about concerns with

24 lead, correct?

1 MR. CONNORS: Objection;  
2 mischaracterizes testimony, and object  
3 to form.

4 A. What I said was that there is  
5 ample internal discussion at Veolia about  
6 exactly the issues we're talking about. And  
7 their internal discussions indicate that they  
8 have concerns about lead and that they are aware  
9 that the proper solution to this problem is to  
10 switch back to the Detroit water.

11 Q. Okay. So just so I'm clear,  
12 Dr. Russell, are you testifying that VNA had an  
13 obligation in 2015 to tell the public about lead  
14 concerns?

15 A. That's a very interesting  
16 question.

17 The canon that you don't mention  
18 here is the first one, which says that  
19 "Engineers are obligated to protect the public  
20 first."

21 And clearly the discussion within  
22 Veolia is that there are serious water quality  
23 concerns in Flint. And the issue of making them  
24 public is a little more complicated, but the

1                           And I thought you testified when  
2     I asked you what this means that just doing your  
3     job as an engineer doesn't mean you've met the  
4     standard of care.

5                           Did I misunderstand what you said?

6     A.     Yes.   What I said was this:   What  
7     I said was that just meeting the letter of your  
8     contract does not mean that you met the State of  
9     Michigan definition of achieving the standard of  
10    care for a professional engineer.   That's what  
11    this statement is about.

12    Q.     Okay.   So can you tell me in what  
13    ways Veolia did not -- well, can you tell me --  
14    the first part of this here, does not connote  
15    quality as a professional ...

16    A.     I'm sorry?

17    Q.     Yeah.   I'm sorry.   I haven't asked  
18    the question yet.

19                           So your point is that even though  
20    VNA may have satisfied their contract with the  
21    city, they still did not satisfy the standard of  
22    care; is that right?

23                           MR. CONNORS:   Objection; assumes  
24                           facts not in evidence and misstates the

1                   testimony. It's vague and ambiguous and  
2                   purposely confusing.

3                   You can answer if you understand.

4                   A.     What I'm saying is that  
5                   Dr. Bellamy's position is that Veolia satisfied  
6                   the terms of their contract; therefore, they  
7                   operated in a manner which allowed them to meet  
8                   the standard of care.

9                   What I'm saying is it's a  
10                  criticism of that position saying that just  
11                  doing the work doesn't mean that you've met the  
12                  standard of care.

13                  And the problem here is one of  
14                  what Veolia is saying internally versus what  
15                  Veolia is saying externally. They had an  
16                  obligation to alert the public that lead was a  
17                  concern.

18                  Their e-mails are full of this  
19                  discussion about lead and what the water quality  
20                  issues are, and yet they're silent. Their  
21                  reports are silent on the subject.

22                  There's even an edited copy of the  
23                  report where the lead discussion is taken out of  
24                  the report. You know, that's the part I'm